



Home Office

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BritCits

request-137718-51bb7ff0@whatdotheyknow.com

25 November 2013

Dear 'BritCits'

Freedom of Information request (our ref:29029): internal review

Thank you for your e-mail of 29 October 2013, in which you asked for an internal review of our response to your Freedom of Information (Fol) request about non-European relatives of British citizens applying for settlement since 9 July 2012.

I have now completed the review. I have examined all the relevant papers, and have consulted the policy unit which provided the original response. I have considered whether the correct procedures were followed and assessed the reasons why information was withheld from you. I confirm that I was not involved in the initial handling of your request.

My findings are set out in the attached report. My conclusion is that UKVI correctly refused your request on the grounds of excessive cost (section 12). For further explanation see paragraphs 10-17.

Yours sincerely

Diana Pottinger
Information Access Team

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by BritCits (reference: 29029)

Responding Unit: UK Visas and Immigration (UKVI)

Chronology

Original Fol request: 19 September 2013

IMS response: 29 October 2013

Request for internal review: 29 October 2013

Subject of request

1. 'BritCits' asked for numbers of non-EU adult dependents of British citizens applying for settlement since 9 July 2012. This follows on from a previous request asking for numbers of non-EU parents of British citizens applying for settlement since 9 July, which had been refused citing cost. For full text of requests see **Annex A**.

The response by UKVI

2. The response informed BritCits that, as the request was essentially the same as the previous one, which had been refused on the grounds of excessive cost (section 12) it was also refused on cost grounds. For full text of the response see **Annex B**.

The request for an internal review

3. BritCits challenged the use of section 12 (cost) stating that it ought to be possible to obtain the requested information. Because a wider range of applicant had been specified in this request (adult dependants rather than parents), he considered that this was a separate category of application. BritCits also stated that the immigration statistics provided as background did not answer the question. For full text of the IR request see **Annex C**.

Procedural issues

4. The Home Office received BritCits' clarified request via email on 19 September 2013.
5. On 29 October 2013 the Home Office provided BritCits with a substantive response, which represents 28 working days after the initial request. Therefore, the Home Office breached section 10(1) by failing to provide a response within the statutory deadline of 20 working days.
6. The relevant part of the Act was cited, and an explanation of why the cost limit was exceeded was provided, as required by section 17(7)(c) of the Act.

7. Section 16 was complied with, as UKVI explained that the request could not be refined so that it could be answered within the cost limit.
8. BritCits was informed in writing of his right to request an independent internal review of the handling of his request, as required by section 17(7)(a) of the Act.
9. The response also informed BritCits of his right of complaint to the Information Commissioner, as set out in section 17(7)(b) of the Act.

Consideration of the response

10. UKVI stated that, as the request was materially the same as the previous one which had been refused on cost grounds, this request could not be answered for the same reason.
11. BritCits stated that the new request was different, because it asked about all adult dependants, rather than parents, however, this does not constitute a refined request. It would not be any easier for UKVI to collate this information, which is wider in scope than the original request.
12. BritCits states that it ought to be possible to provide the statistics, because this specific kind of applicant is dealt with under different rules. The Information Commissioner's Office has stated in its guidance to applicants at the attached link under "dos and don'ts" http://www.ico.org.uk/for_the_public/official_information that applicants should not make assumptions about how the authority organises its information or tell them how to search for the information they want.

Advice and assistance

13. UKVI provided a clear explanation of why it would not be possible to locate and collate the requested information without exceeding the cost limit, and informed BritCits that, in this case, it would not be possible to refine the request so that it could be answered within the cost limit.
14. The response said "The information you are seeking is not captured in our standard reports and requires the scrutiny of individual case records to find cases which fall into the very specific data set you requested."
15. I am satisfied that UKVI correctly informed 'BritCits' that it would not be possible to answer the question posed within the cost limit.
16. BritCits stated that the information provided via a link in the response letter was inappropriate because the figures it contained referred to statistics which included Ghurkhas and those granted settlement on humanitarian grounds, and that this would give a false impression of how many cases there were.
17. This information was provided as background information for the request, and gives some indication of how many records would have to be searched in order to locate the information requested by 'BritCits'. UKVI informed BritCits that the published

entry clearance statistics provided via the link do not separately identify dependent relatives of British citizens and persons settled in the UK.

Conclusion

18. The response was not sent within 20 working days; consequently the Home Office was in breach of section 10(1) of the FOI Act.
19. This was a clarified request. Where clarification is required, it should be sought promptly. There was an unacceptable delay in this case.
20. Section 1(1)(a) was complied with, as the response clearly stated that the requested information was held.
21. Section 16 was complied with as confirmation that it would not be possible to refine the request so that it could be answered within the cost limit was provided.
22. The response complied with the requirements in section 17(7)(a) and 17(7)(b) as it provided details of the complaints procedure.

Information Access Team
Home Office

Annex A – text of requests

Request of 9 December 2012

Please advice on the following, in relation to non-EU parents of British citizens/residents and the new 'rules' brought in with effect from 9th July:

a) how many non-EU parents of British citizens/those with indefinite leave to remain, have applied for a UK settlement visa since 9th July 2012 under the new rules (not 8th July, 9th July) - and of these, how many have been approved, refused and are pending, up until what date?

b) please give at least three examples of situations where parents meet the criteria set, without the condition being along the lines of 'this person will meet the criteria if they can show that this level of care can only be provided in the UK'. That is, we would like, under the FOI act, actual examples of situations where someone does meet the criteria under the new rules (if anyone), without the reference being this person will meet the criteria if they meet another specified element of the criteria! i.e. no circular examples please!

Response 7 Dec – no release s12 and s40- upheld at IR stage.

22 July

Let's try this again.

In a Home Office letter dated 18 December 2012 from Lord Taylor of Holbeach to Lord Avebury it stated "The management information which is currently available from the UK Border Agency's systems for the period from 9 July to 31 October (and is provisional and subject to change) is that one settlement visa was issued in that period to an adult dependent relative under the new rules", where new rules relates to the rules in effect from 9 July 2012. This indicates that such information IS available.

I therefore ask some questions under FOI again:

a) Please indicate how many adult dependant relative settlement applications were received under the rules in effect for applications submitted after 9 July 2012?

b) Of the figure in a), how many of these have been i) granted ii) refused iii) are still in process:

x) to the most recent date available

xx) to 31 October 2012? i.e. Given Lord Taylor's statement that the info relating to the issue of 'one settlement visa' is provisional and subject to change, what is the status of this now

19 September clarification requested and received; This is the request 29029 under consideration in this review

My question relates to all applications you hold information for, whether made from within the UK or abroad.

My understanding of the rules however is that applications cannot be made from within the UK. Please therefore also clarify on your side, once you are finally providing the information, a breakdown of the numbers for applications from within the UK and abroad, where the information is available (which I suspect given your request for clarification, it is).

Annex B – response from UKVI

Dear Brit Cits

Thank you for your e-mails of 22 July and 19 September in which you ask for statistics relating to adult dependent relatives since 9 July 2012 under the new family migration rules. These requests have been handled as a request for information under the Freedom of Information Act 2000.

I am aware that you made a materially similar request on 9 November 2012 and received a response from Helen Sayeed on 6 December 2012. In that request you asked for statistics on how many non-EU parents of British citizens/those with indefinite leave to remain, have applied for a UK settlement visa since 9th July 2012 under the new rules (not 8th July, 9th July) and of these, how many have been approved, refused and are pending, up until what date. Your request of 9 November 2012 was subject to section 12 of the Act because it exceeded a cost limit. An internal review requested by you concluded that Section 12 (cost) was correctly applied to this request.

In your latest request you asked:

*a) how many adult dependant relative settlement applications were received under the rules in effect for applications submitted after 9 July 2012?
b) Of the figure in a), how many of these have been i) granted ii) refused iii) are still in process: to the most recent date available and to 31 October 2012? i.e. Given Lord Taylor's statement that the info relating to the issue of 'one settlement visa' is provisional and subject to change, what is the status of this now?*

In relation to the requests of 22 July and 19 September (which in our view requests the same information as before) the same exemption applies. You have not refined your request in any material way. Under section 12 of the Act, the Home Office is not obliged to comply with an information request where to do so would exceed the cost limit.

We have estimated that the cost of meeting your latest request would still exceed the cost limit of £600 specified in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. We are therefore unable to comply with it. The information you are seeking is not captured in our standard reports and requires the scrutiny of individual case records to find cases which fall into the very specific data set you requested.

The £600 limit is based on work being carried out at a rate of £25 per hour, which equates to 24 hours of work per request. The cost of locating, retrieving and extracting information and preparing the response can be included in the costs for these purposes. The costs do not include considering whether any information is exempt from disclosure, overheads such as heating or lighting, or items such as photocopying or postage.

If you refine your request, so that it is more likely to fall under the cost limit, we will consider it again however refining the request might still result in exceeding the cost limit because your refined request might still for example require information not captured by standard reports and/or the scrutiny of individual records. Please note that if you simply break your request down into a series of similar smaller requests, we might still decline to answer it if the total cost exceeds £600.

You may however wish to note that the Home Office publishes quarterly statistics on entry clearance visas issued by category in tables be_01_q and be_06_q_f (broken down by nationality) within the 'Immigration Statistics' release. A copy of the latest release, 'Immigration Statistics April – June 2013' is available from <https://www.gov.uk/government/organisations/home-office/series/immigration-statistics-quarterly-release>.

Within the tables, adult dependent relatives of a British citizen in the UK or a present and settled person in the UK are included in the category 'Family: Other (for immediate settlement)'. This category also includes Ghurkhas and their dependants. From July 2012, the category 'Family: Other' includes adult dependent relatives of those with refugee leave or humanitarian protection. 'Family: Other' also includes entry clearance visas issued to pre-existing family members of those with refugee leave or humanitarian protection.

Published entry clearance statistics do not separately identify dependent relatives of British citizens and persons settled in the UK, including under Appendix FM of the Immigration Rules or applications submitted on or after 9 July 2012.

In relation to the status of information Lord Taylor provided in correspondence with Lord Avebury about settlement visas issued to adult dependent relatives under the new family rules; we note that in a debate in the House of Lords on 4 July 2013 Lord Avebury said that from July 2012 to the end of the October only one visa was issued to a dependent relative. In response Lord Taylor gave the following information to House of Lords in the same debate:

"My noble friend Lord Avebury asked whether any adult dependent relative visas have been issued since October 2012. I can give him an answer to that. In the year ending March 2013, 5,066 visas were issued to other family members according to published Home Office statistics. These figures do not separately identify adult dependent relatives of British citizens and settled persons in the UK".

Details of this debate are available at the link below.

<http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/130704-0002.htm#13070446000145>

There is no other information or update held relating to adult dependent relative visas since the debate in the House of Lords or in any correspondence with Lord Avebury. We do not consider that the reference to the status of the data supplied by Lord Taylor in this FOI request makes it materially different to the earlier FOI request because it relates to the same data.

You consider that our request for clarification sent to you on 19 September asking whether you meant applications abroad means that statistics for applications made as an adult dependent relative in the UK under the new family rules must be available. This clarification was sought by a central team in the Home Office responsible for allocating FOI work, in order to determine which team would be responsible for answering the question. This request is not an indication that statistics are available. In fact, the new family rules in Appendix FM do not provide an in-country route for adult dependent relatives and therefore no statistics are held on applications made in the UK.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference 29029. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Access Team
Home Office Ground Floor, Seacole Building
2 Marsham Street
London SW1P 4DF
e-mail: info.access@homeoffice.gsi.gov.uk

As part of any internal review the Department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. If you remain dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely

Emma Byrne
North West Correspondence Team

Annex C – IR request

I am writing to request an internal review of Home Office's handling of my FOI request 'Immigration of Non-EU parents of British citizens'.

My request was refused for not being materially different to an earlier one, however the earlier one was refused because the Home office stated they don't hold statistics on non-EU parents. Therefore my subsequent request was to cover all adult dependants which includes parents, in line with the adult dependant relative immigration rules. Referring me to statistics which includes ghurkhas and those granted settlement on humanitarian grounds is to falsely inflate the actual figures and therefore is very misleading.

I state again. The Home Office has clearly separate immigration rules for adult dependant relatives of British citizens and permanent residents. It should not be onerous or expensive to obtain the number of visa applications made, granted and refused within this category alone, given the rules are specific to a group.

A full history of my FOI request and all correspondence is available on the Internet at this address: <https://www.whatdotheyknow.com/request/i...>

Yours faithfully,

BritCits

Annex D – complaints procedure

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your FoI request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF